

SENATE BILL NO. 16—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF ENVIRONMENTAL PROTECTION)

PREFILED FEBRUARY 1, 2005

Referred to Committee on Natural Resources

SUMMARY—Makes various changes relating to regulation of petroleum products. (BDR 51-662)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to petroleum products; authorizing the Division of Environmental Protection of the State Department of Conservation and Natural Resources to expend money from the Fund for Cleaning Up Discharges of Petroleum for the cleanup of discharges involving petroleum and other discharges under certain circumstances; providing for the reimbursement of money from the Fund that is expended by the Division; deleting certain provisions that require the Secretary of the Board for the Regulation of Liquefied Petroleum Gas to provide notice to applicants and licensees before the Board adopts regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Fund for Cleaning Up Discharges of Petroleum against which owners of storage tanks where discharges of petroleum occur may file a claim to recover the costs incurred to clean up the discharge. The Fund is administered by the Division of Environmental Protection of the State Department of Conservation and Natural Resources. (NRS 590.700-590.920)

This bill allows the Division of Environmental Protection to spend not more than \$250,000 each year to pay for the costs incurred by the Division to clean up all discharges that involve petroleum, regardless of whether the discharges are from storage tanks. This bill further allows the Division to expend money to clean up discharges of other hazardous materials if the discharges also involve a cleanup of petroleum. Money from the Fund expended by the Division must be used to augment, not replace, other sources of money for cleaning up discharges of



petroleum, unless no money is available from those other sources. If the Division expends money to clean up a discharge involving petroleum, this bill requires the operator of the tank to reimburse the Division for his share of the costs of the clean up.

Existing law requires the Board for the Regulation of Liquefied Petroleum Gas to provide 10 days' notice to licensees and applicants for licenses from the Board before adopting any regulations relating to safety.

This bill eliminates the requirement of providing such notice.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 590 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of NRS 590.700 to 590.920, inclusive, to the contrary, and except as otherwise provided in this section:

1. The Division may expend not more than \$250,000 from the Fund per year as reimbursement for necessary costs incurred by the Division in the response to and cleanup of any discharge involving petroleum, including discharges from a storage tank and discharges from a mobile tank that occur during the transportation of petroleum on roads and highways. If the discharge involving petroleum also involves the discharge of another hazardous material, the Division may expend money pursuant to this section in the cleanup of the discharge of petroleum and the other hazardous material. The Division shall not expend money from the Fund pursuant to this section to clean up discharges involving petroleum from pipelines.

2. Except as otherwise provided in this subsection, money from the Fund expended by the Division pursuant to this section must be used to augment, and must not be used to replace or supplant, any money available from other sources for the cleanup of discharges of petroleum, including, without limitation, reimbursements by operators required to be made to the Division pursuant to NRS 590.850 and 590.870. If no money is available from those other sources, the Division may expend money from the Fund pursuant to this section to reimburse the Division for any costs specified in subsection 1.

3. If the Division expends money pursuant to this section to clean up a discharge involving petroleum, the operator of the tank shall reimburse the Division for his share of the costs for cleaning up the discharge. The Division shall, upon being reimbursed by the operator of the tank pursuant to this subsection, deposit that money in the Fund.



4. *As used in this section:*

(a) *"Discharge" means any release, leaking or spilling from a tank into water or soil, unless the discharge is authorized by state or federal law.*

(b) *"Operator" means a person who owns, controls or is responsible for the operation of a tank.*

(c) *"Tank" means a storage tank or a mobile tank used to transport petroleum received for sale or use in this State.*

Sec. 2. NRS 590.515 is hereby amended to read as follows:

590.515 1. In addition to any other regulations it is authorized or required to adopt, the Board shall adopt such other regulations as are reasonably necessary for the:

(a) Protection of the health, welfare and safety of the public and persons using liquefied petroleum gases;

(b) Provision of reasonable and adequate service to those persons using liquefied petroleum gases; and

(c) Regulation of the removal of a tank from a customer's premises and the maximum time allowable between the request and the removal. The Board shall consider the presence of fences or other physical impediments to the removal of the tank in determining reasonable exceptions to the time allowed for removal.

2. All regulations adopted by the Board relating to safety must be in substantial conformity with the generally accepted standards of safety concerning the same subject matter. ~~[The Board shall adhere to the following conditions in this regard:~~

~~—(a) The regulations]~~ **Regulations adopted by the Board** relating to safety in the storage, distribution, dispensing, transporting and utilization of LPG in this State and in the manufacture, fabrication, assembly, sale, installation and use of LPG systems, containers, apparatus or appliances must be just and reasonable and must conform, as nearly as possible, to the standards of the National Fire Protection Association, relating to the design, construction, installation and use of systems, containers, apparatus, appliances and pertinent equipment for the storage, transportation, dispensation and utilization of LPG.

~~[(b) Before any regulations are adopted, the Secretary of the Board shall give at least 10 days' notice to all applicants and licensees under NRS 590.465 to 590.645, inclusive, by mailing an accurate copy of the new, revised or amended regulations which the Board proposes to adopt together with a written notice signed by the Secretary. Any person affected is entitled to appear at the public hearing on the regulation in person and by counsel. A certificate reciting the adoption and the effective date must be signed by the members comprising a majority of the Board. Within 10 days after~~



~~the adoption of the regulation the Secretary shall cause to be mailed to each applicant or licensee under NRS 590.465 to 590.645, inclusive, a true and correct copy of the regulation. A facsimile of any member's signature may be used under this paragraph if authorized by the member.]~~

3. In addition, the Board shall adopt regulations which:

(a) Provide for the Board, through its staff, to:

(1) Respond to inquiries and complaints from persons who use liquefied petroleum gas;

(2) Assist persons who use liquefied petroleum gas in obtaining liquefied petroleum gas in an emergency; and

(3) Facilitate the resolution of disputes between licensees and their customers.

➔ The provisions of this paragraph do not impose a duty upon the Board to provide financial assistance to any person.

(b) Provide for the hearing and mediation of complaints filed by persons who use liquefied petroleum gas. Any such hearing must be open to the public, recorded on tape and prior notice thereof must be mailed by the Board to any person who requests to receive notice of such hearings.

(c) Require each licensee to disclose uniformly information which the Board determines is necessary to disseminate to the licensees' customers and prospective customers. The Board may adopt forms for such disclosures, but shall also require each licensee to post its rates and, upon request, disclose by telephone its applicable rates to existing and potential customers who so inquire.

Sec. 3. NRS 590.700 is hereby amended to read as follows:

590.700 As used in NRS 590.700 to 590.920, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 590.710 to 590.800, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NRS 590.830 is hereby amended to read as follows:

590.830 1. The Fund for Cleaning Up Discharges of Petroleum is hereby created as a special revenue fund in the State Treasury. The Division shall administer the Fund for the purposes prescribed in NRS 590.700 to 590.920, inclusive, *and section 1 of this act*, and the Board shall adopt appropriate regulations for the investigation and payment of claims against the Fund. The Board shall review each claim presented and authorize payment to the extent warranted by the facts of the case.

2. The expenses incurred by the Division in performing its duties pursuant to NRS 590.700 to 590.920, inclusive, *and section 1 of this act* are a charge against the Fund. The interest earned on money in the Fund must be credited to the Fund.



1 3. The Board shall transmit a copy of any resolution that the
2 Board has adopted in carrying out its duties pursuant to this section
3 to the Legislative Counsel within 5 working days after the adoption
4 of the resolution for inclusion in the Register of Administrative
5 Regulations published pursuant to NRS 233B.0653.

6 **Sec. 5.** NRS 590.850 is hereby amended to read as follows:

7 590.850 1. Except as otherwise provided in subsection 2, the
8 Division shall collect for deposit in the Fund an annual fee not to
9 exceed \$100, set by the Board, for the registration of each storage
10 tank.

11 2. No fee is to be collected, and no registration is required,
12 with respect to a storage tank used to store heating oil for
13 consumption on the same premises where the oil is stored, or a
14 storage tank operated by a person not required to pay the fee for
15 petroleum produced in or imported into this State.

16 3. The operator of a storage tank required to be registered
17 pursuant to this section who fails to register that tank or to pay the
18 annual fee when required shall reimburse the Division for any
19 expense incurred by the Division in cleaning up a discharge from
20 that storage tank and for any discharge of liability to a third person.
21 *If, in cleaning up the discharge from that storage tank, the*
22 *Division expends money from the Fund in accordance with*
23 *section 1 of this act, the Division shall, upon being reimbursed by*
24 *the operator of the storage tank pursuant to this subsection,*
25 *deposit that money in the Fund.*

26 **Sec. 6.** NRS 590.870 is hereby amended to read as follows:

27 590.870 1. The operator of every storage tank, and every
28 person who for compensation puts petroleum into a storage tank,
29 shall report to the Division every discharge from that tank of which
30 he is aware or has reason to believe has occurred. The Division shall
31 undertake or contract for cleaning up the discharge unless the
32 operator or another person is already acting properly to clean it up.
33 If the Division cleans up the discharge, the operator shall reimburse
34 the Division for his share of the costs. *If, in cleaning up the*
35 *discharge, the Division expends money from the Fund in*
36 *accordance with section 1 of this act, the Division shall, upon*
37 *being reimbursed by the operator of the storage tank pursuant to*
38 *this subsection, deposit that money in the Fund.*

39 2. Each operator who is required or who chooses to register a
40 tank must, unless the tank has been tested for tightness under the
41 federal standards embodied in 40 C.F.R. § 280.43c since July 1,
42 1988, test the tank pursuant to those standards before it is eligible
43 for the coverage provided by NRS 590.880 and 590.890.



1 **Sec. 7.** NRS 590.920 is hereby amended to read as follows:
2 590.920 1. ~~{The}~~ *Except as otherwise specifically provided*
3 *in section 1 of this act, the* provisions of NRS 590.850 to 590.910,
4 inclusive, do not apply to any tank which:

5 (a) Contains petroleum being transported through this State in
6 interstate commerce, but do apply to a tank being used to store
7 petroleum received for sale or use in this State;

8 (b) Contains fuel for jet or turbine-powered aircraft, or is above
9 ground and has a capacity of 30,000 gallons or less, unless in either
10 case the operator complies with subsection 2; or

11 (c) Is above ground and has a capacity of more than 30,000
12 gallons.

13 2. The operator of a tank exempted by paragraph (b) of
14 subsection 1 may obtain the coverage provided by NRS 590.880 and
15 590.890 by applying to the Board, paying the fee set pursuant to
16 NRS 590.850 for its registration, and, if the tank is used to store fuel
17 for jet or turbine-powered aircraft, reporting monthly the number of
18 gallons of fuel put into the tank and paying the fee required by NRS
19 590.840. Coverage pursuant to this subsection begins 6 months after
20 the tank is registered and the required fee first paid.

21 **Sec. 8.** This act becomes effective on July 1, 2005.



